IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 799 of 2005

Anil S/o Shri Karta Ram
R/o Village Sidhadu
P.S. Laksar
District Haridwar … Applicant

Versus

State of Uttaranchal … Opposite Party

Hon'ble B.C.Kandpal, J

By way of this petition under Section 482 Cr.P.C. has been filed by the applicant/petitioner – Anil for quashing the order dated 04.10.2005 passed by Additional District Judge/3rd F.T.C., Haridwar in S.T. No. 410 of 2000 under Section 302, 3074, 504 of I.P.C.

Brief facts giving rise to this petition are that a First Information Report was lodged on 14.07.2005 to this effect that two persons, namely, Davendra and Susheel sustained injuries during the course of the occurrence. In the First Information Report, the name of that assailant was not disclosed.

The chargesheet was submitted and thereafter the accused, namely, Kalu and Ram Kumar stood for facing their trial. During the course of trial certain eyewitnesses, injured and complainant were examined before the trial court and during their deposition it revealed that the petitioner was one of the assailants who fired during the course of the occurrence.

The learned trial court on the basis of the deposition of the eyewitnesses summoned the petitioner as co-accused under Section 319 Cr.P.C.

Feeling aggrieved by the aforesaid impugned order dated 04.10.2005, this petition has filed before this Court.

Heard learned counsel for the petitioner, leanred A.G.A. and perused the record.

The statement of Indra Raj – complainant, Susheel – injured and Smt. Rajni have been filed along with the petition. Perusal of the statement of Indra Raj shows that he has been examined as P.W.1. Although this witness is not an eyewitness but he has stated in his deposition that the deceased Devendra who also sustained injuries during the course of the occurrence and subsequently succumbed to those injuries, disclosed the name of the applicant as one of the assailants. Further Susheel – injured has been examined as P.W.2. He has specifically attributed the role of causing injuries on his person by the petitioner. P.W.3 is Smt. Rajni who is the wife of the deceased Devendra. She has stated that she was sleeping by the side of her husband and she saw that the petitioner was one of assailants who fired at the victims.

I find sufficient material at this stage and I am of the view that the trial court has rightly summoned the petitioner under Section 319 Cr.P.C.

I do not find any illegality in the impugned order passed by the trial court. There is no abuse of process of the court. The petition lacks merits and is liable to be dismissed.

Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

01.12.2005
ASWAL